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**FACSIMILE SUBMISSION UNDER 37 CFR 1.8**

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TO:	FROM:
Mail Stop: Amendment	Kent J. Sieffert
Examiner Christopher Flory	
COMPANY:	DATE:
U.S. Patent & Trademark Office	NOVEMBER 8, 2006
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571-272-6820	58916US002 (1004-085US01)
RE:	APPLICATION SERIAL NUMBER:
Response to Restriction Requirement dated 10.10.06	10/781,118

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**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Marie A. Guion; Arthur G. Erdman; George Sommerfeld; Ahmed H. Tewfik; Craig D. Oster Confirmation No. 1949

Serial No.: 10/781,118

Filed: February 18, 2004 Customer No.: 32692

Examiner: Christopher A. Flory

Group Art Unit: 3762

Docket No.: 58916US002  
(1004-085US01)

Title: ANALYSIS OF AUSCULTATORY SOUNDS USING SINGLE VALUE DECOMPOSITION

CERTIFICATE UNDER 37 CFR 1.8 I hereby certify that this correspondence is being transmitted via facsimile to the United States Patent and Trademark Office on November 8, 2006.

By: Beth M. Lindblom  
Name: Beth M. Lindblom

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
Alexandria, VA 22313-1450

Dear Sir:

This response is to the Office Action mailed October 10, 2006. Claims 1-58 have been restricted under 35 U.S.C. § 121 as follows:

- I. Claims 1-44, drawn to a method for mapping auscultatory sounds, classified in class 181, subclass 131.
- II. Claims 48-58, drawn to an apparatus for analyzing auscultatory sounds, classified in class 381, subclass 67.

Applicants hereby elect Group I with traverse. Applicant reserves the right to submit a Petition From Requirement For Restriction under 37 C.F.R. 1.144.

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**Traversal**

In support of the restriction between Group I and Group II, the Examiner cited MPEP 806.05(e) which states that a process and an apparatus for its practice can be shown to be distinct inventions if either or both of the following can be shown: (1) that the process as claimed can be practiced by another **materially different** apparatus or by hand, or (2) that the apparatus as claimed can be used to practice another and materially different process. The Examiner then stated "in this case the method can be accomplished with a device having a different means of outputting data, such as an alternate visual display (desktop CPU, dedicated LCD platform, bedside monitoring system, etc) or an auditory output. The method could also be accomplished using a device that incorporates telemetry for either data output or data processing from a remote location."

The Applicant agrees that the method recited by claim 1 is not limited in this regard and, indeed, could be accomplished by such devices. However, apparatus claim 48 of Group II is also not limited in this regard and similarly encompasses the devices listed by the Examiner. For example, method claim 1 requires "outputting a diagnostic message associated with a physiological condition of the patient as a function of the vectors and the disease regions defined within the multidimensional space." Apparatus claim 48 of Group II requires a control unit that outputs a diagnostic message indicating the selected one of the physiological conditions. Thus, apparatus claim 48 contains no limitation with respect to the mechanism for outputting data and does not exclude any of the devices listed by the Examiner, such as an alternate visual display, an auditory output, or telemetry. Similarly, the data analysis system of claim 53 includes no limitation whatsoever with respect to output of data.

Consequently, the Examiner's statements are unpersuasive. The devices listed by the Examiner as "materially different" from Applicant's claimed apparatus are, instead, likely covered by Applicant's apparatus and system claims. Consequently, the restriction between Group I and Group II is improper and should be withdrawn.

Date:

November 8, 2006  
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